THE
Laws and *Customs*
OF THE
MINERS
IN
The Forrest of *Dean*,
In the County of
GLOUCESTER.

LONDON,
Printed for *William Cooper* at the *Pellican* in *Little Britain*. 1687.

Mary Jordon

THE

Laws and Customs

OF THE

MINERS

IN

The Forrest of Dean,

In the County of

GLOUCESTER.

LONDON,

Printed for William Cooper at the Pelican in Little Britain. 1687.

Be it in mind and in remembrance what the Cuſtoms and the Franchiſes been that were granted time out of mind, and after in time of the Excellent and Redouted Prince King Edward *the Third, to the Miners of the* Forreſt of Dean *and the Caſtle of Saint* Briavells *and the bounds of the ſaid Forreſt.*

1. FIrſt between *Chepſtows Bridge* and *Glouceſter Bridge* the half of *Newem, Roſſe-Aſhe, Monmouths Bridge*, and ſo far in the Seaſome as the blaſt of a Horn or the voice of a Man may be heard.

2. So that if any did treſpaſs againſt the Franchiſes of the Mine (that is to ſay) that paſſing by Boat, trowe, Pickard, or other Veſſel, without gree made for the Cuſtoms due to the King, and alſo to the Miners for the Mine, then he that paſſed out to come by the noiſe of the Horn or Cry.

. And if he will not come again, then his Boat or Vessel and all his Cattle within forth been forfeit to the King for the forebodement broken, the which is attachment in the Franchises of the said Miners.

4. And also that the said Miners may Mine in any place that they will, as well without the said bondis as within, without forebodement of any man.

5. But if so be a Smith have a Smith man at *Carleon*, *Newport*, or at *Barkley*, the which Smith man is occupied in Smith work, and in Covenant with a Smith holder within the said Bondis then the Smith-holder that is within shall go to the said Town to prove his Covenant, and after the prove made, not having his Smith man, then the Smith holder shall forbid all the Mine that might be carried of the said Estraunger that occupied the said Smith man unto the time that he be answered as right is, then the said Smith-holder within shall not forbid the Mine of no other man but onely of his

him that occupied the ſaid Smith-man.

6. Alſo in the ſaid manner if any Smith-man be in *Monmouth* or in *Trelleck*: Then the Smith-holder ſhall come to the Gate of St. *Briavelli*, and there with 3 hands he ſhall prove his Smith-man, and the prove made a Precept ſhall be delivered by the Conſtable to the Gaveler, the which is Bailiff of the ſaid Mine, to forbid the Mine of him that occupieth the ſaid Smith-man till he be reſtored, and onely of him and of no other.

7. Alſo the Miners have ſuch Liberty and Franchiſes that for Cattle to them due for their Mine, *that they been Bailiffs to take the Cattle of their Debtors*, and to arreſt them without leave of any man till gree be made, if he be within the Bondis aforeſaid, and if the Debtor be without the Bondis in what place that he be, then the Miner ſhall forbid all the Mine that ought to be carried to the place in the which the Debtor being abiding till gree be made to the Miner, and after the forebodement if any carry

Mine to the place aforesaid against the forebodement, the Carrier shall be accountable and Debtor to the Miner as the Principal was, and also the Beasts that carrieth the Mine shall be forfeit to the King for the forebodement broken.

8. Also if any Smith-holder or any other be Debtor for Mine to a Miner, the which Smith-holder or other be within, *then the Miner is Bailiff in every place* (except his own Close) to take the Horse of the Debtor if he be saddled with a work Saddle, and with no other Saddle; and be it that the Horse be half within the door of the Smith, so that the Miner may take the Tail of the Horse, the Debtor shall deliver the Horse to the Miner. And if he so do not, the Miner shall make and levy Hue and Cry upon the said Horse, and then the Horse shall be forfeit to the King for the Hue and Cry made and levied, and yet the Miner shall present the Debtor in the Mind Law which is the Court for the Mine.

9. And the Debtor before the Conſtable and his Clerk, the Gaveler and the Miners, and none other Folk to plead the right, onely the Miners ſhall be there and hold a ſtick of Holly, and then the ſaid Miner demanding the Debt ſhall put his hand upon the ſaid Stick and none other with him, and he ſhall ſwear by his Faith that the ſaid Debt is to him due, and the prove made, the Debtor in the ſame place ſhall pay the Miner all the Debt proved or elſe he ſhall be brought to the Caſtle of St. *Briavells* till gree be made, and alſo he ſhall be amerced to the King in two ſhillings.

10. And the ſame manner Miner to Miner, and Miner to all other folks alſo, if a Diſtreſs be taken in like manner aforeſaid, and the Debtor let the Diſtreſs dye or be impaired within the Ward of the Miner for fraud or for malice after the Miner ſhall diſtreine and take more Diſtreſs if any be till gree be made, and be it that the Diſtreſs die or be impaired

within the Ward of the Miner the Debtor ſhall not have right to implead the Miner, neither no right to grieve him for the treſpaſs done, but at all times the Miner hath right to take other diſtreſs till gree be made.

11. Alſo for the Mine of an Horſe as is aforeſaid, the Miner ſhall take the Fore-girth for three half pence, and for one penny the Halter.

12. Alſo the Miner hath ſuch Franchiſes to enquire the Mine in every Soil of the Kings of which it may be named, and alſo of all other folk without withſaying of any man.

13. And alſo if any be that denieth any Soil whatſomever it be, be it ſowed or no, or of what degree it may be named, Then the Gaveler by the ſtrength of the King ſhall deliver the Soil to the Miners with a convenient way next ſtretching to the Kings Highway, by the which, Mine may be carried to all places and Waters that been convenient

to

to the ſaid Mine without withſaying of any man.

14. For the which Soil in the which the Mine is within found the Lord of the Soil at the firſt time if he will enter into the ſaid Mine freely he ſhall, and ſhall have a *Dole* without paying any thing at his firſt coming, and ſhall be the laſt man of the Fellowſhip, but moreover he ſhall do Coſts as the Fellowſhip doth, and if after it pleaſe the Lord to void he may well, and if after that it pleaſe him to come again he may well, but he ſhall make gree for the Coſts done in the mean while for his part, as the Fellowſhip can prove at the Pits mouth afterwards as another.

15. And all times the Kings man ſhall come in the Mines without any Coſts asked of him, and ſhall be the third better man of the Fellowſhip in maintenance and in helping of the Mine and of the Fellowſhip but the King's man, neither the Lords, ought not to enter within the Mine till the Pit be gaveled (that is to

say) for every Dole a penny to the King at the first time, and after if the Fellowship do make anew any other Dole after the first gaveling without the King's leave, wherefore for every Dole so delivered the King shall have another Dole, of the which Mine of every Miner travelling within the said Mine, the King shall have every week a penny; if so be that the Miner wine three Seams of Mine measured by the Standard of the Kings of old time used at the least, and be it the King shall have no more.

16. And the King shall have every quarter of the year of every Miner travelling within the Mine a Seam of Mine the which is called *Law oare*, and every week the Gaveler shall visit, the *Tuesday* the whole Mine or at the least within two weeks to receive the Customs due to the King aforesaid, and if not, the Miner for the said time shall not be accountable. But if the Gaveler come in the quarter to visit the Mine, as is aforesaid, and find not the Miner at that time, the Gaveler shall receive so much

much of the Mine as it is due to the King without leave of any.

17. Alſo if the Gaveler come in due time to receive the Cuſtoms aforeſaid, and the Debtor will not at that time pay, then the Gaveler ſhall forbid ſo much of the Mine there as it is due to the King by Witneſs of the Miners, and underneath he ſhall put a ſtick of Holly, and after if the Miner carry the ſaid Mine without gree made to the King, then the Miner ſhall be amerced in two ſhillings, and alſo he ſhall make gree to the King for the Debt. And if any ſuch Mine be forbode for Law-oare, then the Miners ſhall meaſure out ſo much of the Mine that is due to the King to make gree, and the Remnant they ſhall carry at their own pleaſure, and that by the Witneſs of another Miner, and if he do not, he ſhall have the pennance aforeſaid.

18. And if the Gaveler come in due time to viſit the Mine (that is to ſay) between *Mattens* and *Maſſe* and find not there

there the Miner at the end of two weeks (that is to say) the *Tuesday* in his working place as the manner is, the Gaveler shall take him that, as is due, and if he be not there present, or any other for him, and at what time the Gaveler cometh to prove, if the Miner been ready to pay the Customs aforesaid or no and they deny, then the Gaveler by the strength of the King shall make the Miner swear by his Faith, and if the Miner be found by his Fellowship forsworn, then the Miner shall be attaint against the King and shall never be believed more against any man. And after if he be found with Mine within the Mine with his Cloaths pertaining to the Mine every week he shall pay to the King a penny.

19. Also the Miners of beneath the Wood (that is to say) *Mitchell Deane*, *Little Deane* and *River Deane* every week the which the Miners travelleth in the Mine they shall pay to the King twelve charges of Mine by a certain measure if they have so much gotten by the week,

and

and the Gavelers ſhall pay the Miners there XII *d.*

20. Alſo the Conſtable ſhall be attendant by the reaſon of his Office for two weeks (that is to ſay) the *Tueſday* to hold the Court of the Mine that is called *Mine Law*, and there to hear and to try the right of our Sovereign Lord the King and of Miners, and of party and party, if any be, and at the ſame *Mine Law* ſhall not be more ſitting but the Miners with the Conſtable but himſelf, the Gaveler, and the Caſtle Clerk, and the Miners before being and no other; but in the ſaid *Mine Law* no man ſhall plead or maintain any Cauſe: But if ſo be that any other hath to doe in the ſaid *Mine Law* he ſhall anſwer for himſelf, and ſhall be judged by the Miners of all things touching the Mine, and in no other Court. And he that is found guilty, Miner to Miner, or any other man, ſhall be amerced to the King in two ſhillings. *The Court.*

21. And

21. And be it that any will plead with any Miner for a thing touching the Mine in any other Court before a Justice or any other man whatsoever he be then the Constable by the strength of the King shall require and bring the plaint into the *Mine Law* and there it shall be tryed by the Constable and the Miners, and then the party guilty shall be amerced to the King as is aforesaid.

22. And if any plaint be in the said *Mine Law*, at the first day it shall be put upon twelve Miners the which shall give the proof the first day, the second day upon XXIV, and the third day upon XLVIII, which forty eight shall give Judgment, the which shall be affirmed firm and shall be without calling again for evermore.

23. And if any Miner be found forsworn by his Faith as it is in prove against any man within the *Mine Law* Miner to Miner, or Miner against any other man, and the said XLVIII have given for Judgment that he is forsworn, then

then the guilty ſhall be attaint againſt the King and ſhall have the pennance aforeſaid, and ſhall reſtore the other all his Loſſes in all points and never ſhall prove more.

24. Alſo every Miner in his laſt days and all times may bequeath and give his *Dole* of the Mine to whom he will as his own Cattle, and if he do not his dole ſhall deſcend to his Heir.

25. And if he to whom the Dole is ſo bequeathed or given by Teſtament either otherwiſe hath need to prove the Dole in the *Mine Law*, he ſhall come there and ſhew the Teſtament, or bring with him two Witneſſes to teſtifie the Will of the Miner, and then as Right is he ſhall be delivered without any Coſt made or asked.

26. Alſo for the Cuſtoms that the Miners done to the King, the Conſtable that is for the time ſhall deliver the Miners in ſix weeks at the *Speech*, that is, the Court for the Wood before the

Ver-

Verderors, by the Woodward that keepeth the place (that is to say) sufficient of Timber, and to maintain the King's advantage and profits, and also for salvation of his Miners, as they did in time out of mind without hurt or attachment made of the King's Officers, (that is to say) Free the Forrest unto the Mine.

27. And also be it that the Miners carry Timber fro the Wood unto his place, or unto any other, the which Timber is made and cut for the Booths for the Mine that for that none attachment shall be made of any man.

28. And if the Constable will deliver none Timber as is aforesaid, and the Miner by his own authority fatch Timber in the Forrest for the Mine, and carry it to the Mine, and after that the said Timber be in their place that is called Gavel-place, the which is known by the old Custome, then is the Timber as their own Cattle, and none attachment shall be made for that.

29 Also

29. Alſo the Sea-Coal Mine is as free in all points as the Oare-Mine, but if the Fellowſhip Mine by the week iij Charges the King ſhall have of every of the Fellowſhip 1 *d.* *Cole.*

30. Alſo that no ſtranger of what degree ſoever he be, but onely that been born and abiding within the Caſtle of St. *Briavells*, and the Bonds of the Forreſt, as is aforeſaid, ſhall come within the Mine to ſee and to know the priviities of our Sovereign Lord the King in his ſaid Mine.

31. Alſo that no Smith-holder, neither Miner, neither no other ſhall make carriage of the ſaid Mine by Cart, neither by Wayne, but onely by the meaſure called *Bellis*, by the which the Cuſtome of the King be meaſured, ſo that the Gaveler may know and ſee that the King hath right in every place done, and if any ſuch unreaſonable meaſure may be found, then every Miner by the ſtrength of the King is Bailiff to arreſt

arreſt the Beaſt, and whereof the Beaſt
ſhall be forfeit to the King and the mea
ſure burnt.

32. And be it that the Miners for duty
or for wretchleſneſs will ſuch wrong
ſuffer, and alſo the Gaveler for his own
Lucre, then the Conſtable by the reaſon
of his Office ſhall purſue by the ſtrength
of the King to take and to doe as is
aforeſaid.

33. Alſo that no Smith-holder after
he holdeth Smith or become Partner to
hold Smith, he ſhall not have none of
the Franchiſes aforeſaid within a year
and a day.

34. Alſo by the Franchiſes aforeſaid
the Conſtable ſhall deliver to the Miner
Timber ſufficient to make a
Pitt. Lodge upon their Pitt to keep
and to ſave the Pits and the
Mine of the Kings and the Miners, and
the Pit ſhall have ſuch Liberty and
Franchiſes that no man ſhall come within
ſo much ſpace that the Miner may ſtand
and

and caſt ſo far from him Redding and Stones with a Bale, as the manner is, and ſhall have his marks pertaining to the ſaid Pit.

35. Alſo ſhall have a bold place in the which the Miner make and perform the Timber to build the ſaid Pit.

36. And if any other come to travel and to work within the places aforeſaid, he ſhall be forbode of the Fellowſhip of the Pit.

37. And if after he come again he ſhall loſe to the King ij s.

38. Alſo the Pit ſhall have a Wyne-way ſo far from him as is aforeſaid pertaining to the ſaid Pit.

39. Alſo the party that is merced in ij s. ſhall avoid the place by the Law of the Miners.

40. Alſo if a Pit be made, and by adventure cometh another upon another way

way within the ground and drulleth to the ſaid Pit, at what time he drulleth to the ſaid Pit he ſhall abide till the other Fellowſhip of the ſaid Pit be preſent, at the which time if the Fellowſhip will not receive him he ſhall turn again by forebode and by the Law of the Mine. But if he drulleth to the ſaid Pit in a certen Mine, then the ſaid Mine ſhall be free to both parties while it dureth: And afterward every each one ſhall come again to his own place ſaving to every each one the place of other. And if after the one or the other do hurt to the other he ſhall reſtore again ſo much to him, if he dig and make the Pit fall he ſhall build it again, and if he diſturb the other that he may not travel to wyne his profit and the Cuſtoms of the King, he ſhall reſtore all the loſt of the King and of the Miner.

41. Alſo if any be wrongfully forebode by the Miner, or by any other, then he that is forebode ſhall come to the Pit and ſhall bring with him his Inſtruments pertaining to the Mine with his

his Light as another of the Fellowship, and there he shall abide so long as the Fellowship, and then by Judgment of XLVIII he shall receive so much as any other of the Fellowship, *&c.*

John Garone, Stephen Preeſte, John Clarke, Thomas Wyt, Thomas Nortone, John Hathway, Thomas Mitchell, John Mitchell, John Smith, John Lumbart, Nicholas Ocle, John Barton, Richard Heynes, John Arminger, Walter Rogers, Richard Hathen, Walter Smith, William Miller, Thomas Croudfell, Walter Dull, John Loofe, Roger Skin, Henry Nortone, Thomas Forthey, Walter Walker, Richard Tinker, William Baker, Thomas Witch, John Baker, Philip Delewger, John Addis, William Hinde, William Tellow, John Burt, John Michell, Richard Hopkine, Thomas Backſtar, John Lawrence, Thomas Tyler, Walter Dolet, William Caloe, Richard Holt, Walter Warr, John Roberts, Henry Doles, John Parſons, William Holder, Thomas Clarke.

Be

Be it known to all men that ſhall ſee and hear this Writing, That the Enqueſt of XLVIII Miners witneſſeth and confirmeth all the Laws comprized in the ſaid Roll. In witneſs whereof they have put their Seals.

Copia vera per me Richardum Kenſham.

F I N I S.

THE

Orders and *Rules*

OF THE

Court of S^t. *Briavells*

IN

The Forreſt of *Dean*,

In the County of

GLOUCESTER.

As they are to be ſeen in the ſame Court.

LONDON,
Printed for *William Cooper* at the *Pellican* in *Little Britain*. 1687.

THE

Orders and Rules

OF THE

Court of S. Briavells

IN

The Torch of Death,

In the County of

GLOUCESTER.

As they are to be seen in the same Court.

LONDON,

Printed for William Cooper at the Pellican in Little Britain. 1687.

THE

Rules and *Orders*

OF THE

Court of St. *Briavells*, &c.

ſſ. Caſtrum Manenerium ſive Hundred. de Sancto *Briavell* intra *Foreſt* de *Deane* in Com. *Glouc.*

A Brief Collection of the Orders, Rules and courſe of proceedings in the Court of Record of our Soveraign Lord the King of his Caſtle and Mannor aforeſaid, collected and aſcertained by his Majeſties Tenants and Suitors of the ſame Mannor and Hundred, by direction and approbation of Sir Baynham Throckmorton,

Knight, Deputy to the Right Honourable Henry *Lord* Herbert *of* Ragland, *his ſaid Majeſties Conſtable of the Mannor and Hundred aforeſaid, the Eleventh day of* May *in the Fifteenth year of the Reign of our Sovereign Lord* Charles *the Second by the grace of God King of* England, Scotland, France *and* Ireland, *Defender of the Faith,* &c. *Annoq; Dom.* 1663.

THIS Court hath three Leets or Law days, *viz.* the *Monday* after *Michaelmas-day* beeing Leet and Court-day, the Court held from three weeks to three weeks till *Chriſtmas*, at which time there is a Ceſſation untill *Hillary-day*, the *Monday* after *Hillary-day* is Leet and Court again, and the Court held as before till *Palm Sunday*, at which time there is a Ceſſation till *Hoc-Tueſday* be paſt, the *Monday* after *Hoc-Tueſday* is Leet and Court again, and the

The ſecond Tneſday *after* Eaſter-week.

the Court held as before till *Lammas-day*, at which time there is a Ceſſation untill *Michaelmas*. This Court is holden and kept by the Conſtable or his Deputy and by the Suitors thereof.

The firſt Proceſs is a *Diſtringas* or Summons in or by which the Bayliff of the Court if the Defendant be a dweller within the Hundred and hath Goods or Cattle there (and no Freeholder) may diſtrain him by his Goods and keep the ſame Goods in ſafe cuſtody till the Defendant hath put in pledge to bail the ſame Goods and to anſwer the Action, which pledge (if any ſuch be taken) ought by the Bayliff to be retorned into the Records of the ſame Court the next Court following where the Action is entred. But if the Defendant be diſtrained by his Goods, *&c.* and the ſame not bailed by pledge as aforeſaid, then ought the Bayliff to ſafe keep the ſaid Goods diſtrained till the Action be tryed, and then an Execution to iſſue forth againſt the ſame Goods and for the ſale thereof for the Plaintiffs ſatisfaction if he recover. *Judges.*

If the Defendant be a Freeholder or *(dwelling)* within the ſaid Hundred and hath Lands or Tenements and Goods or Cattles, then doth the Bayliff uſually ſummon or give notice to ſuch Freeholder being Defendant to be at the next Court to anſwer the Plaintiff in ſuch Action, at which next Court if the Defendant doth not appear upon the calling of the Action, the Defendant is either to be amerced or a *Capias* returned againſt him at the choice of the Bayliff, for if the Bayliff miſtruſt his inſufficiency and imagine that he ſhall not take him or his Goods and Cattles when Execution iſſues out upon the ſaid Action, then and in ſuch caſe it is a ſafe way for the Bayliff upon the Defendants default of appearance, upon return and calling the Action to return a *Capias* againſt him, to put him under pledge for the anſwering the Action, otherwiſe the Defendant being invalid and not to be found when Execution iſſues forth, the Bayliff will be accounted pledge and ſtand ſubject to the cenſure of the Court as pledge.

If

If the Defendant be a dweller within the ſaid Hundred and taken to be a Fugitive perſon, or no dweller at all but a Stranger or Foreigner, in both theſe caſes a *Capias* is grantable to iſſue forth againſt the Defendant to take him by his body and ſafe keep him, or to bring him to Priſon untill he ſhall put in pledge to anſwer the Plaintiff in the cauſe of Action.

If the Defendant be brought to Priſon and there doth remain till the next Court, then ought the Plaintiff peremptorily at the ſame Court to declare againſt him, otherwiſe the Defendant is to be diſmiſſed with his Coſts.

Every Action of what value ſoever is there recoverable at three Courts, if there be no Eſſoin put in or Iſſue joyned thereupon by pleading thereunto, which may ſomewhat alter the proceeding and put the Action a Court or two farther from Tryal and Judgment, in the ſame and every Action begun either by *Diſtringas*, Summons, or *Capias*, ought to have an Attorney of this Court to proſecute the ſame for the Plaintiff, other-

wiſe upon the Defendants appearance in perſon or by Attorney the Plaintiff is called to proſecute, and for want of retaining of an Attorney to proſecute, the Defendant is diſmiſſed with Coſts.

The Plaintiff having retained an Attorney to proſecute, and the Defendant appearing to the Action, either in perſon or by Attorney (being not a Priſoner) the Plaintiffs Attorney the next Court following is to put in a Declaration, unto which the Defendant the next enſuing Court after the Declaration put in, is to put in his Anſwer, and to make the ſame ready for tryal either by the Countrey, by Audit, or wager of Law, and if there be a fayler of putting in the Declaration, as formerly, then may the Defendant or his Attorney crave a diſmiſſion with Coſts for want of proſecution; and if there be a fayler upon the Defendants part for putting in the Anſwer, as formerly, unleſs there be a good cauſe ſhewed, in either of theſe caſes to the contrary, then may the Plaintiff or his Attorney crave Judgment to recover againſt the Defendant for default of an Anſwer.

The

The Defendant in every Action in this Court profecuted upon Plaint or *Capias* may once eſſoign by one of the Suitors and Judges of this Court, but wherein the Defendant hath retained an Attorny in the ſame Action, or is ſeen in Court in perſon either of which bareth the eſſoign and makes the eſſoign null and void. *Eſſoign.*

It was the uſual courſe heretofore that after an eſſoign the Defendant might run amerced till the three Courts were out, and at the fourth Court after the Action entred to be condemned, and judgment to paſs by default, which deferred the tryal of the Action at three Courts by reaſon of the Eſſoign, but the courſe of the Common Law (which is the cuſtome of *England*) that an Eſſoign is an appearance in Law, and by reaſon thereof after an Eſſoign being an appearance in Law, the party eſſoigning ſhall never run amerced but for want of appearance the next Court after the Eſſoign put in ſhall be condemned by default which we approve of.

The Conſtable and Suitors are Judges of the Court Baron.

Tryals

Tryals in this Court are according as the iſſue is therein joyned by the *Attorneys* in this Court, which are in four manner of ways, *viz.* either by Demurrer and joyner in Demurrer thereupon, which is a Tryal in Law, or elſe by the Countrey, *viz.* by a Jury of twelve men, or elſe by Audit, wherein two of the Suitors ſhall be enjoyned by the Conſtable to take the Plaintiffs proof who is to ſwear the matter, in and by his Declaration charged to be good and true, and withall to bring with him two others upon their oaths to confirm that they believe in their Conſciences that the Plaintiff hath made a true oath therein; or laſtly, by wager of Law, which wager of Law by the cuſtome of this Court may be made by the Defendant with five others with him the next Court after the wager of Law joyned.

Wager of Law. In any *Action* of Treſpaſs (except it be in an *Action* of Treſpaſs wherein the Plaintiff doth declare *vi & armis* that the Defendant did him ſuch a Treſpaſs) the Defendant may confeſs

to

to a value, and wage his Law for the residue of his dammages charged.

In every action of Debt upon a simple Contract (except it be upon Bond, or laid upon promise in nature of an action upon the Case) the Defendant may plead he owes the Plaintiff nothing, *&c.* and so put himself upon his Law.

Note that in every wager of Law the Defendant must be ready the next Court after Law joyned with his five other persons ready to doe his Law, or else Judgment is to be given against him, and in the wager of his Law he is positively to swear that he oweth the Plaintiff nothing, *&c.* in manner and form as the Plaintiff hath declared, and his five other persons ought to swear that they and every of them do in their Consciences believe that the Defendant hath made a true oath therein, and if there be any fayler therein or any of the compurgatours withdraw his or their hands from the Book, Judgment ought to be given for the Plaintiff.

Note farther, that when the Defendant is ready to doe his Law and the Plaintiff ſhall be called to know either by himſelf or his *Attorney* whether he will ſtand to his *Action* or not, for when the Defendants hand is on the Book ready to perform his Law, the Plaintiff may become nonſuit (if he pleaſe) and after bring a new *Action* in another nature; but if he ſtand to his *Action*, and the Defendant doe his Law, then is the Plaintiff barred of any new *Action* touching the ſame.

Upon every *Action* of Debt entred (by Summons or *Diſtringas*) in Court the *Action* is entred by ſo many plaints of Debt as the Debt conſiſts of in ſhillings, whereupon if the Defendant run amerced he is amerced the firſt Court three pence for every plaint or ſhilling, and the ſecond Court ſix pence for every plaint or ſhilling.

If the Defendant anſwer, and there be any thing by him pleaded in barr to avoid the *Action* which requires a replication, the Plaintiff is to put in the ſame the next Court following, and in like

like manner a Rejoynder or Sur-rejoynder, &c. but for avoiding of delays in this Court the Defendant (if he pleaſe) by conſent of the *Attorneys* may plead the general iſſue and give the ſpecial matter in evidence at the Tryal, and in caſe the Declarations anſwers Replications, &c. are vitious in form having matter of ſubſtance they may be amended by order of the Court upon motion to the Court or by conſent of the parties.

After iſſue joyned the Plaintiff (if he pleaſe) giving the Defendant or his *Attorney* timely notice thereof may proceed to tryal of the iſſue joyned, and at the ſecond Court after iſſue joyned if the Plaintiff put not the ſame to tryal, that day the Defendant (if he pleaſe) may by *proviſo* entred the ſaid ſecond Court proceed to tryal the Court following that, upon either of which a *Venire Facias* is to iſſue forth to the Bayliff to ſummon a Jury accordingly.

If a full Jury appear not, the parties of them not appearing are to be amerced and a *Tales Circumſtantibus* returned to make up the Jury.

That

That at Tryals the *Attorneys* be not permitted to interrupt one another in opening the Cauſe or managing the Evidence but ſhall fairly proceed therein.

That the parties, Plaintiff or Defendant, nor any others be permitted to ſpeak to interrupt the Court whilſt a Cauſe is in tryal, but if they have any thing to offer let them ſtand by and inform their *Attorneys* thereof, unleſs it be deſired by the *Attorney* and granted by the Court that the party Plaintiff or Defendant may inform the Court of the ſame, the *Attorney* being ignorant thereof.

That one and the ſame Jury by cuſtom there may try more than one Cauſe at the ſame time being but once ſworn accordingly.

Suitor. The Suitors being Judges of this Court by inheritance are in the ſame Court accounted the King's Bayliffs there, and have power (as well as the Meſſor or Bayliff by Patent) an *Action* being once entred to attach or take the Body of the Defendant and put him under pledge to anſwer the ſame *Action* as the Bayliff by Patent hath, and

and to return the same pledge the next Court.

They have also power to replevy any Cattle taken & impounded as trespassers for Damage Feasant, or such like cases wherein the Cattle are repleviable, and to put the parties that owes the Cattle under pledge to prosecute the same Replevin, or for return of the Distress if the same be awarded, and to return the Repleving and the pledge taken the next Court, and to take such Fees for the executing thereof as the Bayliff by Patent hath or doth take. *Replevin.*

The said Suitors have also power by the custom of this Court in all Causes wherein any View is prayed by the appointment of the Constable either two, four or six as the matter shall require, and the Constable appoint them to repair to the place where the agrievance lieth, examine the Cause by Witnesses first sworn in Court to them to be produced or by their own view and knowledge, and to make return by their Certificates touching the verity of the diffe- *View.*

difference, and to whom the matter in difference prayed for belongeth, and for placing of meets and bounds to distinguish between the parties what belongs to the one and what to the other of the parties striving, if the case so require, and such Certificate is to be by them returned in at the next Court after the View prayed for, and they by the Constable appointed Viewers for such purpose and for their pains each man xij *d.*

The ancient and usual custom there hath been that when a Judgment is granted in the same Court either by *Nihil Dicit* or tryal, the party recovering shall have execution against the other, either against his Goods & Cattles, the Goods and Cattles of his pledge or against their bodies, at the choice of the party that doth recover and hath Judgment, which is for levying the summ recovered with the costs within fifteen days next after the date of the Execution to satisfie the party that did recover his Debt, Damage and Costs mentioned in the said execution, besides the Bayliffs Fees for executing the same. This Execution is directed to the Bayliff

and

and ſuch other perſons as the party recovering ſhall nominate as ſpecial Bayliffs for executing the ſame. This is and hath been the ancient cuſtom of this Court.

Pledges in this Court are of two ſorts (*viz.*) there is a pledge taken to anſwer or pledge for the Countrey, the pledge taken for the Defendant to anſwer ſtands pledge to the end of the plea (*viz.*) for the Countrey, unleſs he brings the Defendant in Court, there cauſeth him to anſwer, and then prayeth that he may be excuſed from ſtanding any longer pledge, and that the Defendant may either put in new pledge for the Counttey, or be committed untill he ſo ſhall, upon which deſire of the firſt pledge made upon the Defendants anſwer, the firſt pledge ought to be excuſed and the Defendant ordered by the Court either to put in new pledge for his Countrey or to be committed to Priſon till he ſo doe.

Fees allowed and pertaining to the Officers of this Court.

	li.	*s.*	*d.*
To the Conſtable Annuatim	9	2	6
Upon every Fine and Concord acknowledged in Court	0	6	8
To the Suitors			
For every Eſſoign	0	0	4
Out of which they pay 1 d. to the Recorder or Clerk.			
For every Attachmene or Arreſt they make upon a Stranger	0	1	4
Upon a Dweller	0	0	8
For every replevin on this ſide of the wood	0	0	6

If

	li.	s.	d.
If beyond the Wood	0	2	0
Upon every Appraisement to each Appraisor,			
If on this side the Wood	0	0	4
If beyond the Wood	0	2	0
Upon every view they are charged,			
To each of them	0	1	0
Upon every Auditt	0	0	2

A quart of Sack upon every Fine acknowledged.

To the Steward or Castle Clark.

	li.	s.	d.
For making the Estreats yearly paid by the Fee-farmer	1	13	4
For entring every Action which the Attorneys do usually pay that enter the same with him	0	0	2
For entring every Essoign which the Suitors do usually pay to him	0	0	1
For receiving and fileing every Declaration, Answer, Plea, Demurrer, Joynder in Demurrer, Replication, Rejoynder, &c. which the Atorneys do usually pay for their Clyents	0	1	0
For every Venire Facias	0	0	6
For every Subpœna ad testificand.	0	0	6
For receiving a Verdict	0	0	4
For entring Judgment thereupon	0	0	8
For a Cap. ad Satisfaciend. or Levar. Fac.	0	1	0
For recording a Nonsuit	0	0	8
For Execution thereupon for Costs	0	0	4
For entring Judgment by Default	0	0	4
For Execution thereupon	0	0	4
For every Cap. returned in Court directed to the Bayliff only	0	0	4

For

	li.	s.	d.
For every Cap. returned in Court directed to special Bayliffs	0	0	8
For every privy Cap. against a Stranger or Fugitive	0	1	0
For a Cap' at the Suit of any Suitor only	0	0	4
For entring the Action thereupon	0	0	2
For every Fine and Concord acknowledged in Court	0	3	4
For engrossing and exemplifying the same	0	2	0
For receiving a Certiorari	0	2	6
For certifying the Record thereupon as the length of the Cause requires. The like for a Writ of Errour			
For receiving a Procedendo	0	2	6
For a Scire Facias if any granted	0	1	0

Fees allowed and pertaining to the Officers of this Court.

To the Attorneys,

For every Court day in every Cause	0	0	4
For to enter every Action which they pay to the Steward	0	0	2
For every Court of Tryals for every Tryal then tryed	0	1	0
For drawing every Declaration	0	1	0
For making a Copy thereof to deliver to the Defendants Attorney	0	1	0
For to enter every Decl. with the Steward	0	1	0
For drawing the Def's. Answer or Plea	0	1	0
For a Copy thereof	0	0	6
For entring the same with the Steward	0	1	0
And so for every other Plea, as Replication, Rejoynder, &c.	0	1	0
For every Præcipe or Fine they draw	0	1	0
For every special Motion	0	1	0

To the Bayliff or Meſſor.

	li.	s.	d.
For ſummoning every Defendant, and executing every Diſtringas —	0	0	2
For executing every Cap. ad Reſpond. returned in Court —	0	0	4
For executing every Cap. againſt a Stranger or Fugitive —	0	1	0

If the ſame be only by him allowed to Special Bayliffs and they & not he do execute, then is he only to have for his allowance thereof, which the Recorder or Caſtle Clark is to take up for him more than his Fees.

For making and entring the ſame —	0	0	4
For ſummoning and returning a Jury for Tryal —	0	2	0
For executing every Capias ad Satisfac. & Levari Fac. *for every ſhilling thereupon levied, which is to be added in the Execution, beſides the Debt, Damages and Coſts* —	0	0	1
For executing a Scir. Fac. *if any be granted*	0	0	4

To the Caſtle-keeper or Janitor.

The Caſtle-keeper or Janitors Fee upon every commitment beſides what is due to him for his Fee by Patent —	0	2	6
To him by cuſtom belongs the keeping of the common Pound for the Hundr. and his Fees is for every impounding	0	0	4
If the Cattle impounded belong to a Suitor —	0	0	1

To

To ſpecial Bayliffs upon any *Capias* or Ezecution there hath not been any Fee hitherto aſcertained, but the ſame left to the courteſie of the party that employed them to officiate according to their deſerts and adventure in the executing of the ſame Proceſs.

The youngeſt Suitor always ſerves Bayliff for the Liberty of *Newland* for his year enſuing, his Office within that Liberty is as the Office of the Bayliff at large within his Liberty to perform in all points for Summons, Service of Proceſs, or otherwiſe, and for ſummoning in a part of a Jury for any Tryal, and to receive a quarter part of the Sallery for the ſame.

The Conſtable and Suitors of this Court ought by the cuſtom thereof to appear, ſit in Court, and have the Court called by or before twelve of the Clock in the Forenoon, otherwiſe the Court is loſt for that day.

We do order and ordain that whatſcever perſon or perſons ſhall wittingly or willingly act, abet, practice, or by falſe information endeavour to pervert or alter

ter any of the proceedings of this Court contrary to the Orders and Rules above written ſhall forfeit for the firſt offence being duely proved the ſumm of fifty ſhillings, and for the ſecond offence being thereof duly convicted the ſumm of five pounds current *Engliſh* Money, the ſame to be levied to and for the King's Majeſties uſe accordingly.

William Bromwich, William Skin, Richard Tyler, Edward Dale, William Carpender, Richard Elly, John Witt, Kedgwin Hoſkin, Richard Worgan, William Withenbury, Arthur Ricketts, George Bond, Thomas Martyn.

Baynham Throckmorton, Junior,

Deputy Conſtable.

We

Castram Manerium sive Hundred. de Sancto Briavell. *præd'.*

We whose Names are hereunto subscribed being the Jury sworn for our Soveraign Lord the King's Majesty at the Court held for the Manor and Hundred aforesaid, the first day of *October* in the six and twentieth year of the Reign of our Soveraign Lord King *Charles*, over *England* the Second, Do present and declare the above Rules and Orders intituled, *A brief Collection of the Orders, Rules and course of Proceedings in the Court of Record of our Sovereign Lord the King of his Castle, Mannor and Hundred of Saint* Briavells, *&c.* to be the ancient Orders, Rules, Customs and Usages of the said Court of Record of our Soveraign Lord the King, his Castle, Mannor and Hundred of St. *Briavells* aforesaid, time out of mind, onely excepting the last Paragraph of the said Collection (*viz.*) *We do order and ordain, &c.* which said Paragraph we believe to be only a By-law, but made for so good an end and purpose we present the same as reasonable and fit to be continued in force

force and practice in the said Court of Record, *&c.*

Also we present that there is and hath been an ancient Mannor and Liberty called the Mannor or Liberty of *Newland* within the said Hundred of St. *Briavells*, wherein are several Suit-lands the owners whereof by the ancient custom there are bound to do their Suit and Service, and sit Suitors or Benchers in the Court held for the said Mannor and Hundred of St. *Briavells*, the youngest of which said Suitors by the said ancient custom of the said Mannor or Liberty of *Newland* are or ought to be yearly chosen by the said Court to be Bayliff for the said Mannor or Liberty of *Newland*, not only to execute all Process, *&c.* out of the said Court held for the said Mannor and Hundred of St. *Briavells* which shall be directed by the said Court to be executed within the said Liberty or Parish of *Newland*, but also to collect and gather the Rents due to his Majesty from the said Suitors, for their Suit-lands only within the said Parish for the year of such his Bayliffship, and the same so col-

collected and gathered to pay to his Majesties Fee-farmer for the said Hundred of *Briavels* or to his or their under-tenants, which said Office of Bayliff for the said Liberty of *Newland* hath usually been executed by the said youngest Suitor in his own person or by his Deputy first admitted and sworn in the said Court.

Also we present that in lieu of the said service of the said youngest Suitor it hath been the ancient custom in the said Mannor or Liberty of *Newland* time whereof the memory of man is not to the contrary, for his Majesties said Suitors of the said Parish of *Newland* severally to doe but one Suit for all their said Suit-lands in the said Parish of *Newland*, albeit he hath or might have several of the said Suit-lands, so likewise it hath been the ancient custom in the said Mannor, Liberty or Parish of *Newland*, for his Majesties said Suitors of the said Parish of *Newland* to pay upon alienation or decease one only Harriot and that of the best Beast, and for want of such Beast one best thing of his Goods for such alienation, or upon such a decease, albeit the said Suitor either alie-

alienateth or dyed ſeized of ſeveral the ſaid Suit
lands within the ſaid Pariſh of *Newland*.

John Witt, George Bond, John Bond, William Probyn, Chriſtopher Dowle, John Jane, Thomas Martin, Edward Skin, John Bulbrick, Thomas Dale, Henry Worgan, William Withinberry.

16. *Die Novembris.* 1663.

S. *Briavells.* Ordered by the Court that the Bayliffs of the Hundred and the Liberty of *Newland* do henceforth leave a Ticket with or at the dwelling houſes of all ſuch perſons that they ſhall ſummon to this Court, purporting at whoſe Suit ſuch perſons are ſo ſummoned and for what cauſe, and the perſons name who gave ſuch Summons is the next Court after to be entred in the Plaintiffs Attorneys Book.

That for the future no perſon be returned by any of the Bayliffs of this Court as a pledge for any perſon except ſuch pledge hath firſt ſubſcribed his name or mark on the backſide of the *Capias* atteſted by one Witneſs at leaſt, and that every ſuch *Capias* be returned into Court to be filed by the Steward amongſt the Records of this Court, *&c.*

14. *Die Novembris.* 1664.

It is ordered by this Court that in ſummoning every Jury unleſs the perſon himſelf be ſpoke with there is a Note to be left at his Houſe.

FINIS.